

1 **WO**

2
3
4
5
6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
8

9 Robert Reish, et al.,

10 Appellants,

11 v.

12 Phoenix Heliparts Incorporated, et al.,

13 Appellees.
14

No. CV-20-00554-PHX-DLR

ORDER

15
16 Before the Court is Appellants' appeal of Bankruptcy Judge Daniel P. Collins'
17 March 11, 2020 order (Doc. 1 at 9-11), which is fully briefed. (Docs. 11, 14, 15.) For the
18 following reasons, the bankruptcy court's decision is affirmed.

19 **I. Background**

20 On December 28, 2018, Judge Collins issued an order finding, *inter alia*, that the
21 value of the 41FF helicopter ("41FF") was \$2.15 million. (Doc. 11-4.) Appellants
22 appealed that order to this Court. (Doc. 11-5.) On November 25, 2019, the Court remanded
23 the matter to the bankruptcy court to ascertain the property value of 41FF as of October 27,
24 2015 and to support such valuation with evidence from the record. (Doc. 11-8.) On
25 remand, Appellants filed a motion to reopen discovery as to the 41FF valuation issue, and
26 the bankruptcy court presided over oral argument. (Docs. 11-10, 11-13.) On March 11,
27 2020, the bankruptcy court issued its order pursuant to appellate remand ("Order on
28 Remand"). (Doc. 1 at 9-15.) The Order on Remand denied Appellants' motion to reopen

1 discovery and entered final judgment against Appellants in the amount of \$2.15 million—
2 its valuation of 41FF. (*Id.*) In support of its valuation, the bankruptcy court included
3 seven separate record-based reasons and citations. (*Id.* at 2-4.) Appellants have appealed
4 the Order on Remand. (Doc. 1.) The matter is now ripe.

5 **II. Legal Standard**

6 On appeal, the Court reviews a bankruptcy court’s findings of fact under the clearly
7 erroneous standard. *In re Johnston*, 21 F. 3d 323, 326 (9th Cir. 1994). The bankruptcy
8 court’s factual determination is clearly erroneous if it is illogical, implausible, or without
9 support in the record. *United States v. Hinkson*, 585 F.3d 1247, 1261-62 (9th Cir. 2009).
10 The Court reviews de novo mixed issues of law and fact and conclusions of law. *In re Su*,
11 290 F. 3d 1140, 1142 (9th Cir. 2002).

12 **III. Discussion**

13 First, Appellants assert that the Order on Remand is erroneous because—in re-
14 determining the value of 41FF to be \$2.15 million— the bankruptcy court disobeyed the
15 Court’s remand order, which Appellants mischaracterize as holding that \$2.15 million
16 “wasn’t the right number.” However, the Court plainly noted that its remand order was
17 “not declaring that the \$2.15 million figure is inherently an incorrect valuation of 41FF.
18 Rather, the bankruptcy court erred by failing to adequately support the valuation[.]” *Reish*
19 *v. Mukai*, No. CV-19-00400-PHX-DLR, 2020 WL 122875 n. 3 (D. Ariz. Jan. 10, 2020).
20 The bankruptcy court more than complied with the Court’s directive by ascertaining
21 41FF’s value at the time of transfer from PHP to Mr. Reish and supporting such valuation
22 with significant record evidence.

23 Second, Appellants contend that the bankruptcy court abused its discretion by
24 refusing to reopen discovery on remand, arguing that the Court’s remand order implicitly
25 mandated it. The Court’s remand order did not mandate a reopening of discovery,
26 implicitly or otherwise. It was within the bankruptcy court’s discretion to decide whether
27 to reopen discovery. It did not abuse its discretion in declining to do so where Appellants
28 consistently held that Mr. Reish was entitled to the full proceeds of the 41FF sale,

1 Appellants never listed the valuation of 41FF as an issue to be addressed at trial, and
2 Appellants did not disclose an expert on valuation before the July 30, 2018 deadline, even
3 though such failure was not substantially justified or harmless.

4 Third, Appellants argue that the bankruptcy court abused its discretion by failing
5 to *sua sponte* bifurcate the valuation issue and by addressing valuation before the issue was
6 ripe, following determination of ownership. It is undisputed that Appellants did not
7 request bifurcation. The bankruptcy court was under no independent obligation to bifurcate
8 *sua sponte*, even though it could have done so. Further, Appellants provide no relevant
9 legal support—and the Court has found none—for its position on ripeness.

10 Fourth, Appellants argue that the bankruptcy court erred by failing to take judicial
11 notice of the trustee's trial testimony that PHP paid \$100,000 for the 41FF as non-airworthy
12 salvage. The bankruptcy court noted in its Order on Remand that it had evaluated this
13 evidence. (Doc. 11-16 at 9.) Nothing further was required of the court.

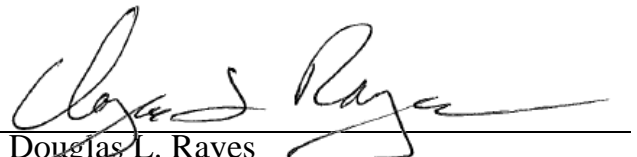
14 Finally, Appellants assert that the Order on Remand cannot stand because it is
15 unduly vague. To the contrary, the Order on Remand is clear, plain, and unambiguous.
16 Accordingly,

17 **IT IS ORDERED** that the bankruptcy court's March 11, 2020 order (Doc. 1 at 9-
18 15) is **AFFIRMED**.

19 **IT IS FURTHER ORDERED** that the Clerk of Court is directed to terminate any
20 remaining deadlines and hearings, enter judgement in favor of Appellees, and terminate
21 this case.

22 Dated this 5th day of October, 2020.

23
24
25
26
27
28


Douglas L. Rayes
United States District Judge